PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093

FILED

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NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: Kay R. Ehrenkrantz

Deputy Attorney General Telephone: (609) 984-4654

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF

Administrative Action

REKHA DAFTARY, M.D. LICENSE NO. 42971 CONSENT ORDER

TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY

This matter was initially opened to the New Jersey State Board of Medical Examiners (hereinafter "the Board") upon receipt of information that Rekha Daftary, M.D. ("Respondent") had been the subject of a Medicaid investigation for recordkeeping and billing issues, and alleging potential quality of care issues. Respondent appeared pro se and testified before a Preliminary Evaluation Committee ("PEC") of the Board in February 2000. Respondent testified that: between May 1997 and June 1998, Respondent maintained a solo practice under the name Family Care

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Center, 685 Prospect Avenue, Newark, New Jersey, where she practiced internal medicine. Respondent's hospital privileges at Hackettstown Hospital were terminated effective March 31, 1998.

After ending her Newark practice, Respondent physically removed her patients' files from the practice, which was assumed by another licensee. Respondent kept approximately sixty to seventy patient records in her car, which she had removed from her prior Newark practice, without leaving a copy of the complete record for the physician who took over the care of her patients. Subsequently, Respondent dropped off her patients' medical records at her prior medical office without discussing her actions or notifying the physician-owner concerning the identity of the documents left.

Based on concerns about Respondent's medical treatment, the Board acquired an expert opinion. That opinion found that Respondent's medical care deviated from the standard of care in several areas, including inappropriate monitoring of medical conditions by diagnostic testing and medical treatment ordered.

On or about November 19, 2003, Respondent was served with a Demand for Statement Under Oath ("Demand"), pursuant to N.J.S.A. 45:1-18. Respondent's response was submitted on January 16, 2004. Respondent failed to provide proof of continuous medical malpractice insurance coverage for the entire period 1998 through 2001, and failed to provide information pertaining to her medical practice during the year 2000. Respondent's malpractice insurance

policy indicated that Respondent had worked as a physician at the Eastern Jersey State Prison during the year 2001. Respondent's sworn response to the Demand for Statement Under Oath stated that she had not practiced medicine from 2001 until 2003. Respondent's response to the Demand contained false information.

A four-count Complaint was filed against Respondent in July 2004. Respondent filed an Answer in August 2004, denying many of the allegations.

The facts stated above establish a basis for disciplinary action, as a violation of N.J.S.A. 45:1-21(b), the Patient Record Regulation N.J.A.C. 13:35-6.5, which constitutes a violation of N.J.S.A. 45:1.21(h), and the Duty to Cooperate Regulation, N.J.A.C. 13:45C-1.2 and -1.3, which constitutes a violation of N.J.S.A. 45:1-21(e) and (h). It appearing that Respondent desires to resolve this matter without further proceedings, and the Board finding the within disposition adequately protective of the public health, safety and welfare, and for good cause shown,

IT IS, therefore, on this Siday of June, 2005, ORDERED AND AGREED THAT:

1. Respondent Rekha Daftary, M.D. is hereby reprimanded for her failure to comply with Board regulations pertaining to the appropriate maintenance of medical records, which require legibility and storage in a secured location; and for her failure to include all information in her response to the Demand for

Statement Under Oath, which violated the Duty to Cooperate Regulation.

2. The license issued to Respondent to practice medicine is hereby suspended for a period of fifteen (15) months. The first three (3) months shall be an active suspension, and shall be deemed to have been completed by January 1, 2005.

The remainder of the suspension going forward is deemed a stayed suspension, pending successful completion within twelve (12) months of all of the following terms set forth in Paragraphs 2 through 7 of this Order. Any and all costs of those terms shall be borne by Respondent. Such stayed suspension shall be served as a probationary term. If the terms below are not satisfactorily completed by the end of twelve (12) months, the stayed suspension may become an active suspension of her license continuing until such time as she completes all the terms required by this Consent Order. By the end of the twelve (12) month period, Respondent shall appear before a PEC and demonstrate successful compliance with this Order.

3. Respondent has made sworn representations that she is not presently practicing medicine and does not have medical malpractice insurance. Any evidence that Respondent actively practices during the twelve (12) month period after this Order is filed, without further Board approval, which shall require advising the Board of Respondent's intent to practice, showing proof of medical malpractice insurance, and compliance with all terms herein, shall

constitute grounds for the immediate revocation of Respondent's license.

- 4. Within six (6) months, Respondent shall: (a) submit to a neuropsychological examination and psychiatric evaluation by Board-approved licensees and reports of such evaluations shall be provided to the Medical Director of the Board and a Committee of the Board; (b) any issues identified by such evaluations requiring treatment must be satisfactorily addressed, as documented by the treating physician or psychologist, and Respondent may not practice medicine in New Jersey until proof of compliance with this term has been provided to the Board and the Attorney General; and (c) once the evaluations are received, if necessary, a specific treatment protocol shall be developed and quarterly reports to the Medical Director shall be required for a period of at least one (1) year from the initiation of any such treatment.
- 5. Notwithstanding any other terms of this Order, Respondent may not resume the active practice of medicine in New Jersey, nor accept any employment as a physician in New Jersey, unless and until she successfully completes the SPEX examination with a passing score of 75 (scaled) or better, and has provided proof of the results of that examination to the Medical Director of the Board and the Attorney General. If she does not pass the SPEX examination, Respondent's license will be actively suspended until further Order of the Board. If Respondent fails to take the SPEX and/or fails the SPEX, her license shall remain suspended

indefinitely. If Respondent is unable to pass the SPEX examination by the conclusion of twelve (12) months from the date this Order is filed, sufficient grounds will exist for the revocation of her license.

- 6. Respondent must complete a Board-approved recordkeeping course before she may resume the active practice of medicine in New Jersey. Proof of the successful completion of the course shall be submitted to the Medical Director of the Board and the Attorney General.
- 7. Once Respondent has successfully complied with the terms contained in Paragraphs 2, 3, 4, 5 and 6 of this Order, and within the twelve (12) month probationary period, Respondent shall appear before a Preliminary Evaluation Committee of the Board, with proof of medical malpractice insurance, and submit to questioning before that Committee, in order to receive the necessary Board approval to resume the active practice of medicine in New Jersey.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

Bernard Robins, M.D., F.A.C.P.

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President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Kella Caffiere USD.
Rekha Daftary: M.D.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A.45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number ¹ :
List the Name and Address of any and all Health Care Facilities with which you are affiliated:
List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:
Provide the names and addresses of every person with whom you are associated in you professional practice: (You may attach a blank sheet of stationery bearing this information)

Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.